

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
(Northern Division)

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U.S. DISTRICT COURT
DISTRICT OF MARYLAND
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LITIGATION

CLERK'S OFFICE
AT BALTIMORE

Master Docket No. BY 10-CV-00318 (RDB) DEPUTY

THIS DOCUMENT RELATES TO:

ALL ACTIONS

SCHEDULING ORDER

This scheduling order is being entered by the Court pursuant to Fed.R.Civ.P 16(b). Any inquiries concerning the schedule should be directed to my chambers, not to the Clerk's Office. **The schedule will not be changed except for good cause.**

This case is subject to electronic filing. Please familiarize yourself with the procedures for electronic filing available at: www.mdd.uscourts.gov. You must use the electronic filing system for filing documents with the Clerk and sending case-related correspondence to chambers. **When you electronically file a document that, including attachments, is 15 pages or longer, you also must provide a paper copy of the document and a paper copy of the notice of electronic filing to the Clerk's Office (not directly to chambers).**

The parties do not request an early settlement/ADR conference. The parties also do not consent to proceed before a United States Magistrate Judge.

I. DEADLINES

Event	Date
Defendants' Answers to the Consolidated Amended Complaint	May 27, 2011
Rule 26(f) Conference Process Completed	June 3, 2011
Initial Disclosures limited to disclosures under Rule 26(a)(1)(A)(i)	June 14, 2011

Event	Date
Report re Number of Depositions (see details below)	June 28, 2011
Production of Defendants' Sales Transaction Data and Plaintiffs' Purchase Data	September 15, 2011
Joint Status Report Regarding Parties' Document Productions	November 15, 2011
Plaintiffs' Motion for Class Certification (including any Rule 26(a)(2) Expert Disclosures re class issues)	February 1, 2012
Plaintiffs' Class Certification Expert(s) Must Be Deposed	May 1, 2012
Defendants' Opposition to Class Certification (including any Rule 26(a)(2) Expert Disclosures re class issues)	May 21, 2012
Defendants' Class Certification Expert(s) Must Be Deposed	July 5, 2012
Plaintiffs' Reply in Support of Class Certification (including any Rule 26(e)(2) Supplemental Expert Disclosures re class issues, if any)	July 20, 2012
Plaintiffs' Class Certification Expert Must Be Deposed on any Supplemental Report	August 9, 2012
Hearing on Class Certification	Friday, August 19, 2011 at 9:30 a.m.
Merits Discovery Deadline; Submission of Status Report (see below)	August 1, 2012
Plaintiffs' Rule 26(a)(2) Expert Designation(s) & Disclosures	September 1, 2012
Deposition of Plaintiffs' Expert(s)	45 days after disclosure
Defendants' Rule 26(a)(2) Expert Designation(s) & Disclosures	November 1, 2012
Deposition of Defendants' Expert(s)	30 days after disclosure
Plaintiffs' Rebuttal Rule 26(a)(2) Expert Disclosures	December 15, 2012
Deposition of Plaintiffs' Expert on Rebuttal Report	30 days after disclosure

Event	Date
Expert Discovery Deadline	January 15, 2013
Last Day to File Dispositive Pretrial Motions	January 21, 2013
Responses to Dispositive Motions due	March 22, 2013
Reply to Responses to Dispositive Motions due	May 21, 2013
Pre-Trial Conference	Monday, August 29, 2011 at 4:30 p.m.
Trial	Friday, September 6, 2013 through Friday, October 4, 2013

II. DISCOVERY

Procedure

Unless otherwise ordered herein, all of the provisions of Local Rule 104 apply, including the following:

a. All discovery requests must be served in time to assure that they are answered before the discovery deadline. An extension of the discovery deadline will not be granted because of unanswered discovery requests.

b. The existence of a discovery dispute as to one matter does not justify delay in taking any other discovery. The filing of a motion to compel or a motion for a protective order will not result in a general extension of the discovery deadline.

c. No discovery materials, including Rule 26(a)(1) and Rule 26(a)(2) disclosures, should be filed with the court, unless offered in connection with Class Certification proceedings, as set forth above.

d. Motions to compel shall be filed in accordance with Local Rule 104.8 and applicable CM/ECF procedures.

e. Please be familiar with the Discovery Guidelines of this Court which are Appendix A to the Local Rules.

Number of Depositions

The parties will report to the Court by correspondence on June 28, 2011 concerning the precise number of depositions that they believe each side should be permitted to take in this action. The parties agree that the Federal Rules of Civil Procedure should otherwise govern depositions.

Number of Interrogatories, Requests for Production of Documents, and

Requests for Admission

The parties agree that Federal Rules of Civil Procedure 33, 34, and 36 shall apply in this action..

Expert Fees and Costs

With respect to Fed.R.Civ.P 26(b)(4)(C) and Local Rule 104.11.a, the parties agree to bear the fees and costs of their respective experts, including for the time spent in depositions and in traveling to and from depositions. This requirement is without prejudice to the right of a party to move the Court for payment or reimbursement of expert-related fees and expenses pursuant to Fed.R.Civ.P. 54(d)(2) and/or 23(h).

Production of Defendants' Sales and Plaintiffs' Purchase Data

Before July 1, 2011, the parties shall confer to identify the sources of their transaction data, the date ranges available, and the manner in which the data are maintained. The parties shall produce their transaction data in electronic form where reasonably feasible. The parties shall confer in good faith regarding the date ranges of data to be produced and the content and manner of production.

Electronic Discovery

Pursuant to Rule 26 and the Court's Case Management Order No. 1, ("CMO No. 1") Plaintiffs have asked Defendants to meet and discuss, among other things, the retention and production of electronically stored information. Plaintiffs proposed that the parties adopt the Court's Protocol for Discovery of Electronically Stored Information ("ESI Protocol"). Certain Defendants proposed that the parties adopt a separate protocol drafted by Defendants. Defendant Millennium proposed a separate protocol drafted by Millennium.

The parties agree to continue conferring pursuant to Fed. R. Civ. P. 26(f), arrive at an agreed ESI protocol for the discovery of electronically stored information, and/or report to the Court by no later than June 30, 2011 on this issue.

III. CLASS CERTIFICATION HEARING

The parties request that the Court schedule a hearing on Plaintiffs' Motion for Class Certification at a date and time convenient for the Court after the completion of briefing on the Motion.

IV. STATUS REPORT

The parties jointly shall file on the day of the Merits Discovery Deadline (set forth above) a Status Report to update the Court on relevant issues. Should the parties disagree with respect to any part of the contents of the Status Report, they should state their respective positions in the

Report.

V. PRETRIAL CONFERENCES

The Court will set a date and time for a pretrial scheduling conference as soon as possible after ruling on any motion(s) for summary judgment. At the scheduling conference, the Court will:

a. Set a deadline for submitting the pretrial order, motions in limine, proposed voir dire questions and proposed jury instructions;


b. Set a pretrial conference date and a trial date (if such dates have not been previously been set); and,

c. Ask you whether a settlement or other ADR conference with a judicial officer would be useful. Please confer with your client about these matters before the conference so that you are in a position to respond.

VI. COMPLIANCE WITH LOCAL RULES AND CM/ECF PROCEDURES

Unless otherwise stated herein, the court will demand compliance with the Local Rules and CM/ECF procedures. If you need to obtain a copy of the Local Rules or the CM/ECF procedures, they are available on our website at www.mdd.uscourts.gov.

Dated: June 1, 2011



RICHARD D. BENNETT
UNITED STATES DISTRICT JUDGE